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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,524	10/08/2003	Leslie S. Marco	13727	9641
7590 Raymond W. Campbell TAYLOR & AUST, P.C. 142 S. Main St. P.O. Box 560 Avilla, IN 46710				
06/20/2008				
EXAMINER				
TAWFIK, SAMEH				
ART UNIT		PAPER NUMBER		
3721				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/681,524

Applicant(s)

MARCO ET AL.

Examiner

Sameh H. Tawfik

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slomski (U.S. Patent No. 5,868,659) in view of Broskow (U.S. Patent No. 5,487,465).

Slomski discloses a method of making a container carrier, comprising steps of: providing a handle sheet and a carrier sheet (Fig. 4; via sheets handle sheet 56 and container sheet 52); positioning the handle sheet (56) on at least a portion of the carrier sheet (52), see for example (Fig. 4); connecting the handle sheet and the carrier sheet along a line of attachment (Figs. 3 and 4; via along attaching line 46/38); forming a container holding portion (via 22) only in the carrier sheet, including forming first and second rows of container receiving apertures in the carrier sheet on opposite sides of the line of attachment (Figs. 3, 4, and 6); and forming holes only in the handle sheet simultaneously with forming the first row of apertures (Fig. 4; via forming holes in the handle sheet 56 simultaneously with forming the apertures of web 52), the holes and the first row of apertures formed in substantially the same configurations, see for example (Fig. 4).

Slomski does not disclose the step of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting nor the step of forming holes in the handle sheet and the forming the first row of container receiving

apertures in the carrier sheet being performed by cutting through overlaying portions of the handle sheet and the carrier sheet to form holes and row of apertures in overlaying arrangement.

However, Broskow discloses a similar method and apparatus of making a container carrier with the step of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, and the step of forming holes in the handle sheet and the forming the first row of container receiving apertures in the carrier sheet being performed by cutting through overlaying portions of the handle sheet and the carrier sheet to form holes and row of apertures in overlaying arrangement see for example (Fig. 5; via stamping die 64 cutting through overlying portions of the handle sheet/portion and the carrier sheet/portion to form holes of container receiving apertures and holes in the handle portion).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski's method and apparatus by having the step and means of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, via by connecting webs 52 to 56 before been feed to the forming stations 60 and 62, and the step of forming holes in the handle sheet and the forming the first row of container receiving apertures in the carrier sheet being performed by cutting through overlaying portions of the handle sheet and the carrier sheet to form holes and row of apertures in overlaying arrangement as suggested by Broskow, as a matter of engineering design choice.

Regarding claim 2: Slomski discloses the step of connecting performed by creating a substantially continuous weld between said sheets (Figs. 3 and 4; via weld/seal line 38).

Regarding claim 3: Slomski discloses the step of connecting the handle sheet with the carrier sheet along first and second spaced lines of attachment (Figs. 3 and 4; via connecting 64 at it's both sides with respect to the carrier sheet); and removing a portion of the handle sheet between the first and second spaced lines of attachment, see for example (Fig. 4; via by removing portions of handle 26 between two connecting lines 38), to define first and second handle sheet portions separate from each other (via sequence of handle sheet portions 26).

Regarding claim 4: Slomski in view of Broskow does not disclose a third row of apertures in the carrier sheet. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski in view of Broskow by having a third row of apertures in the carrier sheet, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 5: Slomski discloses the step of forming holes in the handle sheet simultaneously with forming the apertures, see for example (Fig. 4).

Regarding claim 6: Slomski discloses the step of forming first and second handles in the handle sheet (via multiple forms of 26).

Regarding claims 7 and 12: Slomski in view of Broskow does not disclose the step of forming a merchandising panel. However, the examiner takes an official notice that such a merchandising panel in container carrier is old, well known, and available in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski in view of Brosko, by having the step of

forming a merchandising panel, as a matter of engineering design choice, in order to advertise for the products.

Regarding claim 8: Slomski discloses a method of making a container carrier, comprising steps of: providing a handle sheet and a carrier sheet (Fig. 4; via 52 and 56); positioning the handle sheet against the carrier sheet (Fig. 4); connecting the handle sheet and the carrier sheet along spaced first and second lines of attachment (Figs. 3 and 4; via 38 and 64); removing a strip of the handle sheet between the lines of attachment, see for example (Fig. 4), leaving a first handle portion of the handle sheet outwardly from the first line of attachment and a second handle portion of the handle sheet outwardly from the second line of attachment (Fig. 4; via handles 26 out from the attached lines); forming a first row of container receiving apertures in the carrier sheet outwardly from the first line of attachment and simultaneously forming holes in the first handle portion of the handle sheet similarly shaped to the first row of apertures (Figs. 3 and 4); forming a second row of apertures in the carrier sheet between the first and second lines of attachment (Fig. 4).

Slomski does not disclose the step of forming performed after the steps of positioning and connecting nor the step of forming holes in the handle sheet and the forming the first row of container receiving apertures in the carrier sheet being performed by cutting through overlaying portions of the handle sheet and the carrier sheet to form holes and row of apertures in overlaying arrangement.

However, Broskow discloses a similar method and apparatus of making a container carrier with the step of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, see for example (Fig. 5) and the step

of forming holes in the handle sheet and the forming the first row of container receiving apertures in the carrier sheet being performed by cutting through overlaying portions of the handle sheet and the carrier sheet to form holes and row of apertures in overlaying arrangement, see for example (Fig. 5; via stamping die 64 cutting through overlying portions of the handle sheet/portion and the carrier sheet/portion to form holes of container receiving apertures and holes in the handle portion).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski's method and apparatus by having the step and means of forming first and second rows of container receiving apertures in the carrier sheet after the steps of positioning and connecting, via by connecting webs 52 to 56 before been feed to the forming stations 60 and 62, and the step of cutting through overlaying portions of the handle sheet and the step of forming holes in the handle sheet and the forming the first row of container receiving apertures in the carrier sheet being performed by cutting through overlaying portions of the handle sheet and the carrier sheet to form holes and row of apertures in overlaying arrangement, as suggested by Broskow, as a matter of engineering design choice.

Slomski in view of Broskow do not disclose a third row of apertures in the carrier sheet nor cutting through overlapping portions to form the third row of apertures. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Slomski in view of Broskow by having a third row of apertures in the carrier sheet and therefore cutting through overlapping portions to form the third row of apertures, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claims 9 and 11: Slomski discloses that the forming steps performed by die cutting, see for example (Figs. 2-4).

Regarding claim 10: Slomski disclose that the handle sheet (56) is wider than the carrier sheet (52); via after the shaping step.

Regarding claim 13: Slomski discloses the step of providing the handle sheet of material different from the material of the carrier sheet (Fig. 4; via 52 and 56).

Response to Arguments

Applicant's arguments filed 04/10/2008 have been fully considered but they are not persuasive.

Applicants argue that Slomski '659 does not disclose holes in the handle portion 26 shaped in any way similar to the container receiving apertures of the container engaging portion 24. The examiner likes to draw applicants attention that the claim language using the word "substantially" which make the limitations followed by such word un-positively. Broadly considering the claim language "substantially the same configurations" could mean that the configurations could be close enough does not have to be exact.

Applicants further argue that the applied reference of Broskow '465 does not teach a separate handle sheet and a separate carrier sheet nor cutting through overlaying portions of the handle sheet and the carrier sheet. The examiner broadly considering the claim language maintains that Broskow discloses the step of overlaying two separate sheets (broadly considering sheet 60 as carrier sheet and sheet 58 as handle sheet) and cutting through them to form handle and row of container receiving apertures, see for example (Fig. 5; via holes on the sheet been formed to form both handle and container receiving apertures).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sameh H. Tawfik/
Primary Examiner, Art Unit 3721

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